



UNITED STATES DEPARTMENT OF EDUCATION

Student Financial Assistance Programs

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June 30, 1997

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FINAL PROGRAM REVIEW
DETERMINATION LETTER
PRCN: #199630513007

Dear Dr. Barden:

This letter responds to letters from Moorhead State University (the institution) dated October 17, 1996 and May 14, 1997 in response to the above referenced program review report. The program review report dated September 13, 1996 covered the institution's administration of the Campus Security Act of 1990 (the Act). The program review report is incorporated by reference, in its entirety, into and made part of this final program review determination letter and is attached hereto as Attachment A.

Final determinations have been made concerning all of the findings presented in the program review report. The purposes of this letter are to (1) identify actions to be taken resulting from the findings presented in the program review report, and (2) close the program review.

As detailed below, we find that the institution has not fully complied with the requirements of the initial program review report. We believe that the institution has not demonstrated a serious commitment to its obligations under the Campus Security Act and has discounted the seriousness of the issues raised by this office. The consequences of the program violations presented in findings #1 through #4 are discussed below. We have referred this final program review determination letter (FPRD) to the Administrative Actions and Appeals Division (AAAD) for appropriate action. Notwithstanding any actions taken by AAAD, the institution is advised that repeat findings in future program reviews or audits, or the failure to satisfactorily resolve the findings of this program review, may lead the Department to initiate further adverse administrative action. An adverse administrative action may include the imposition of a fine or the limitation, suspension or termination of the institution's eligibility pursuant to Part 668 of the Student Assistance General Provision regulations (34 CFR Part 668).

FINDINGS AND PROGRAM DETERMINATIONS

FINDING NO. 1 Crime Statistics Not Accurately Disclosed--Annual Campus Security Reports

The original program review report included the following finding, reference, and requirement for this item:

FINDING: The institution's annual campus security reports for each of the years 1992 through 1995 were reviewed to determine: 1) whether all of the required disclosures had been made, and 2) whether the disclosed information was accurate. University officials indicated that all incidents handled by the Housing and Security Office were communicated to the Moorhead Police Department for inclusion in the statistics compiled by the Moorhead Police Department. Because there had been complaints alleging that the information reported was inaccurate, the reviewers examined the source documents used to prepare the crime statistics, and interviewed individuals involved in the gathering of these statistics and in the preparation of the reports. While the institution did meet the requirement to publish an annual report for each of those years, detailed examination revealed areas where the institution failed to properly report required information.

a) Crime statistics are estimated. The crime statistics included in the institution's annual security reports do not reflect the number of actual crimes reported to campus officials or local police agencies (as required by 34 CFR 668.47(a)(6)), or arrests for drug, liquor or weapons violations (as required by 34 CFR 668.47(a)(8)). Instead, the statistics for both categories are estimates, provided by the Moorhead Police Department, of the institution's share of crimes reported for the area in which the institution is located. The police department, as part of state crime reporting responsibilities, compiled statistics for crimes reported for various "grids" within the city of Moorhead utilizing state crime definitions. The State of Minnesota recompiled the Moorhead police data using the FBI UCR definitions. This recompiled data was then utilized for the institution's statistical disclosure.

Although the police department created an unofficial "sub-grid" representing the campus, this sub-grid is not reflected in the state compilation. Also, the Moorhead Police "sub-grid" system did not track arrests for drug, liquor or weapons violations. The Moorhead Police Department then estimated the institution's share of the arrests reported for the grid.

This practice of utilizing an estimate cannot satisfy the statutory and regulatory requirement that actual arrests and crimes specifically reported to campus officials and local police agencies be statistically disclosed. The statistics on which the institution relied are incomplete and could not lead to an accurate accounting. The police department's sub-grid did not include other facilities controlled by recognized student organizations. In addition, the sub-grid did not include "reasonably contiguous" university properties located near the main campus that must be included in the statistics according to 34 CFR 668.47(f). More importantly, contrary to statements by the university, all crimes known to university officials are not reported to the police. In reviewing records of the Housing & Security Office, the reviewers determined that some incidents are reported and some are not. There was no indication that the institution took any steps to ensure that the estimated data reflected or corresponded to crimes known to university officials.

b) All university properties not included. The definition of campus includes: 1) any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purpose; 2) any building or property owned or controlled by a student organization recognized by the institution; 3) any building or property controlled by the institution, but owned by a third party. The reviewers interviewed the Director of Housing and Security and a representative of the Moorhead Police Department who indicated that the figures reported in the university's annual campus security reports included data only from properties located on the campus proper. The campus security reports do not include, as required, all reasonably contiguous buildings or properties owned or controlled by the institution, owned or controlled by recognized student organizations, or controlled by the institution, but owned by a third party. For example, the annual campus security report statistics do not include the occurrence of crimes at university-recognized fraternity housing facilities.

c) Coordination of information from all sources. As noted in paragraph (a), the institution relies solely on statistics provided by the Moorhead Police Department for its statistical report. All campus officials with significant responsibility for student and campus activities are not surveyed for data for possible inclusion in the report. For example, occurrences of covered crimes reported to the "MSU Counseling Center" were not collected and included in the annual campus security report's statistics. Officials of the institution involved in student counseling are not excluded from the institution's statistical reported obligations (counselors are excluded only from the timely warning requirements of 34 CFR 668.47(e)). The reviewers interviewed the Director of Counseling who indicated that this type of data is collected and quantified by the counseling center.

d) Statistics for non-contiguous university properties. The Regional Science Center is a non-contiguous property owned and controlled by the institution. Our review of the annual campus security reports revealed that no separate statistics for the Regional Science Center were reported, and there were no references to the center in the various policy statements. Interviews with University officials revealed that the University does not collect statistics or prepare a separate report for the Regional Science Center, either.

e) Federal Bureau of Investigation's Uniform Crime Reporting Program Categories and Definitions. The institution failed to report occurrences of crimes consistent with the Federal Bureau of Investigations Uniform Crime Reporting Program (FBI UCR) definitions contained in 34 CFR 668, Appendix E, and failed to report the crime statistics under the appropriate categories as contained in 34 CFR 668.47(a)(6) and (a)(8). For example, in the 1994 annual campus security report the institution reported "Sexual assaults" by degree, and did not report "Sex offenses, forcible and nonforcible." It is unclear what definition was used to categorize the reports under this category. Detailed review of the annual campus security reports revealed differing reporting categories from year to year. Interviews with university officials and a representative of the Moorhead Police Department revealed that the FBI UCR definitions are not used to categorized crimes. The Moorhead Police Department categorized incidents according to the State's crime reporting system which uses definitions that are not consistent with the FBI UCR definitions. Although the state of Minnesota recompiled the Moorhead police data using the FBI UCR definitions, use of the state definitions exclusively for initial reporting, may lead to underreporting of, or no reporting of, some required categories. For example, use of the state definitions may result in omitting reports of forcible fondling, which is one of the four sub-categories of sex offenses-forcible as defined by the FBI. Detailed backup information for the annual campus security reports was not available for review, therefore the reviewers were not able to determine the effect or extent of the inaccuracies resulting from not categorizing and reporting crimes according to the FBI UCR definitions.

f) Hate crimes. The institution's publications did not address the presence or absence of crimes as listed in 34 CFR 668.47(a)(6)(i) that manifest evidence of prejudice based on race, religion, sexual orientation, or ethnicity, as prescribed by the Hate Crimes Statistics Act (28 U.S.C. 534) and required under 34 CFR 668.47(a)(6)(ii).

g) Timeframe for data collection. For the institution's 1992 and 1994 reports, statistics were reported for 13 month periods from August 1, to the following August 31. The 1993 report did not state the time frame for that year's statistics. For reports due on or after September 1, 1995, data must be reported on a calendar year basis. 34 CFR 668.47(d).

h) Inconsistent data. In addition, the reviewers found that the institution had apparently failed to consistently report carryover data. For example, in the category "Aggravated Assault" zero are reported for the year 1992 in the 1992 annual campus security report; seven are reported for the year 1992 in the 1993 annual campus security report; seven are reported for each of the years 1992 and 1993 in the 1994 annual campus security report; and four are reported for the year 1992 and zero are reported for the year 1993 in the 1995 annual campus security report. The inconsistencies are evident in the chart contained in Attachment A. The annual campus security reports provided no explanations for the changes in data from year to year.

Failure to accurately report occurrences of crimes results in the underreporting of occurrence of crimes and denies students and employees the opportunity to make informed judgments about the relative security of the campus environment and to make personal security decisions.

REFERENCE: 34 CFR 668.14(c)(2)(1995)
34 CFR 668.16(1995)
34 CFR 668.47(1995), [April 29, 1994 Federal Register
(59 FR 22314-22321) and June 30, 1995 Federal Register
(60 FR 34428-34433)]
Sect. 485(f) of the HEA, as amended

REQUIRED ACTIONS: The institution is required to review the requirements of 34 CFR 668.47, develop a system for collecting information about all occurrences (reports/arrests) of those crimes covered in 34 CFR 668.47(a)(6) and (a)(8), use the FBI UCR definitions under 34 CFR part 668 Appendix E, and indicate whether or not any crimes under 34 CFR 668.47(a)(6)(k) manifest evidence of prejudice as prescribed by the Hate Crimes Statistics Act (28 U.S.C. 534) for inclusion in its annual campus security report. The report must also include separate statistics and other appropriate references for the Regional Science Center since it is a non-contiguous property owned and controlled by the institution; the institution may wish to issue an entirely separate report for the Regional Science Center.

In its response to this report, the institution is required to describe how it will bring its campus security statistical disclosures into compliance with the law and regulations. The institution's response should address each of the deficiencies noted above and explain how it will take corrective actions to ensure complete reporting in the next annual campus security report. In addition, the institution must review previously disclosed statistics and report corrected statistics in light of the noted deficiencies.

Due to the fact that the institution has disclosed only estimated and not actual statistics of crimes on campus, the institution's response must demonstrate that it has taken corrective action to ensure accurate reporting and disclosure. The response should include:

- a) A copy of the detailed procedures it will implement to collect crime statistics and inform relevant staff of their reporting responsibilities.
- b) A listing of relevant staff who will be surveyed for required statistics.
- c) A copy of the data collection instrument(s) to be used indicating all relevant collection timeframes.
- d) A description of how it will incorporate information gathered from the local police into the annual security report.

The Department will review the response to determine the institution's commitment to take corrective action and ensure future compliance.

We have reviewed the institution's responses of October 17, 1996 and May 14, 1997 to determine how it addressed the required actions above as follows:

1. Review the requirements of 34 CFR 668.47

In its October 17 response, the institution stated that it has reviewed the requirement of 34 CFR 668.47.

2. Develop a system for collecting information about all occurrences (reports/arrests) of those crimes covered in 34 CFR 668.47(a)(6) and (a)(8)

The institution stated in its October 17 response that it has revised its practice and will include incidents reported from all required sources. It stated that it now lists in its 1996 Campus Security Report all persons who should report, and stated that it included these sources in its

1996 report, including incidents reported to the counseling center. It also attached copies of the procedures it implemented to collect crime statistics and data collection instruments.

One of the attachments, entitled, "Campus Security Policy #2 Policy on Collecting Crime Report Statistics," shows that the institution will use reports taken by the institution's campus security personnel, received by the Moorhead Police Department (via annual requests for data), reports received by the Clay County Sheriff's Department (via annual requests for data), and reports received from campus officials identified in the Act (via periodic requests from the Director of Housing & Security). While adequate, we believe that the policy could be improved by being more specific as to how often the Director of Housing & Security should collect data from campus officials.

The attachment also included a copy of a letter that pertains to the reports received from campus officials. This letter instructs the campus officials to call the Director of Housing & Security by January 15, 1997 if that official is aware of any crime that may have occurred on the campus that may not have been reported to either Campus Security or the Moorhead Police. This document can be improved to insure more accurate reporting. First, it instructs the officials to report to the Director of Housing and Security only if they are aware of a crime having occurred. It would be more effective to require a response from every official, even if he or she has nothing to report. This would provide a record that all of the officials received and gave due attention to the request. This would avoid any underreporting that might occur if an official with knowledge of an incident did not receive the request or failed to respond. Second, the request instructs the officials to report crimes that have occurred "on campus." As discussed previously, the reporting requirements are not restricted to the campus proper and include, for example, other contiguous properties and off-campus fraternities, sororities and other properties the institution controls but does not own. The document should be clarified to insure that officials report with respect to all facilities covered by the Campus Security Act. Third, the document does not specify for what periods officials are supposed to report.

3. Use the FBI UCR definitions under 34 CFR part 668 Appendix E

The institution stated in its response that it is using the FBI UCR definitions.

4. Indicate whether or not any crimes under 34 CFR 668.47(a)(6)(k) manifest evidence of prejudice as prescribed by the Hate Crimes Statistics Act (23 U.S.C. 534)

The institution stated that it is identifying crimes manifesting evidence of prejudice as prescribed by 34 CFR 668.47(a)(b)(i). Its campus security report for 1996 indicates that there were no hate crimes committed in 1993, 1994, or 1995. However, the documentation that the institution stated it used to gather information from campus officials and law enforcement agencies does not request that they identify if any of the crimes they are reporting are hate crimes. Therefore, we do not believe the institution has a system to identify and report on hate crimes.

5. The campus security report must include separate statistics and other appropriate references for the Regional Science Center or issue a separate report for the Regional Science Center.

The institution's response included a copy of the 1996 campus security report which does include separate statistics for the Regional Science Center.

6. Describe how the institution will bring its campus security statistical disclosures into compliance with the law and the regulations, addressing each finding of the deficiencies noted in the finding, and explain how it will take corrective actions to ensure complete reporting in the next annual campus security report.

The institution's October 17 response disputed the finding in the program review report by stating that it estimated crime statistics. According to the institution, it used estimated statistics only for reporting arrests for liquor, drug, and weapons violations that were provided by the Moorhead Police Department. It stated that the Moorhead Police Department was not able to provide precise numbers in the past, but will be able to do so in the future because it has computerized the location of the institution's facilities and can generate the numbers of arrests for liquor, drug and weapons violations on the institution's property and the property of recognized student organizations. It also stated that the new computer program allows for the retrieval of information based upon addresses.

We contacted the Deputy Chief of Police for the Moorhead Police Department to corroborate the institution's response. We learned that the computerization of campus locations was not operational as of October 17, 1996, the date of the institution's first response. However, when we spoke with the Deputy Chief on March 17, 1997, he indicated the computerized system was operational in January 1997. We also learned that data is not compiled on a routine basis by the Moorhead Police Department for the institution's use, and as of that date the institution had yet to request any reports from the new system. However, such reports could be provided if requested. Finally, it appears that the addresses provided to the Moorhead Police Department for creating the database did not include all institutional locations. For example, the address of the admissions office (1104 7th Avenue South) was not included in the listing of addresses. The institution explained in its May 14 response that the administration building is part of the MSU campus, and therefore did not need to be separately listed with the Moorhead Police Department.

Although the institution stated that the only estimates it used were for liquor, drug and weapons violations, we found evidence to the contrary while performing the review. Under the Moorhead Police Department's method of tracking crime statistics, it divided its jurisdiction into grids. The institution was not in a grid by itself, but was part of one grid. The MPD attempted to identify those crimes within the subgrid that applied to the institution because it was aware that the institution needed the data for reporting crime statistics. However, the institution had not given the MPD a detailed listing of the locations of all of its properties and recognized organizations. Therefore, the MPD did not have an exact method for identifying all crimes that occurred on locations that met the regulatory definition of the institution's "campus." Also, to classify the crimes using the FBI UCR definitions, the MPD submitted its data to the State of Minnesota. Once the crimes were categorized, the state sent the recompiled data back to the MPD. Because the institution was not in its own grid, the Moorhead Police estimated which of the recompiled crime numbers occurred on campus. This was an estimate of all crimes, not

just those related to alcohol, drug and weapons violations. Therefore, the institution's response does not adequately address the use of estimated crime figures in prior years.

The institution also stated in its October 17 response that it has revised its practice and will include incidents reported from all required sources. According to the response, the institution now publishes a list of all persons who should report incidents of crime to Campus Security. The institution's staff will be trained to ensure that they are aware of their reporting obligations. Procedures for collecting crime statistics, as well as examples of data collection instruments were attached to the report. In its May 14 response, the institution provided documentation showing that it provided training to its staff regarding reporting requirements under the Campus Security Act.

7. Review previously disclosed statistics and report corrected statistics.

We do not believe that the institution has adequately addressed the required actions of the program review report. Our reasons are as follows:

Revisions of Prior Years Statistics

The 1996 campus security report contains what the institution states are corrected statistics for crimes that occurred in 1993, 1994 and 1995. The institution's response did not include revisions or statements pertaining to years prior to 1993.

Failure to Include All Known Incidents

The 1996 campus security report does not report any aggravated assaults in 1994 yet we have documentation showing that a student reported being physically assaulted during an initiation ritual in 1994. The incident was disclosed to both institutional officials and to the Moorhead Police Department. In an article from the institution's student newspaper, The Advocate (September 8, 1994), three students were charged with false imprisonment as a result of the incident, and the institution concluded that it was serious enough to withdraw its recognition of the fraternity. (See Attachment B). The student's injuries were severe enough to require immediate medical attention; the victim reported blood in his urine as well as numerous bruises and abrasions.

The article also indicates other students were physically harmed as a result of this incident by stating that the fraternity had to pay medical bills presented by pledges before it regained recognition by the institution. We asked for further clarification as to why this incident not reflected in the statistics. In its May 14 response, the institution stated that it excluded this incident based on the "Initial Complaint Report" (ICR) accompanying written statements that were submitted to campus security (#94 0109). The institution noted that none of the statements contain any information about paddles or other objects allegedly being used. Second, it stated that there is no reference to severe bodily harm or the likelihood of producing death, and refers to one of the reports that says that two pledges showed no outward signs of any abuse. The institution stated that the ICR indicated that the incident was a "simple assault".

The institution's response raises several concerns. First, the institution's knowledge and understanding of the incident was not restricted to the ICR; the obligation to accurately report

crimes on campus is not restricted to whatever limited information may be available in some preliminary report to the campus security office. The use of boat paddles and the resulting injury were well publicized; the institution also undertook its own investigation that resulted in the suspension of recognition of the fraternity.

The use of boat paddles and resulting injury plainly indicates that the incident could be classified as an aggravated assault (see the Federal Bureau of Investigation's Uniform Crime Reporting Handbook, pages, 16-17). The fact that the fraternity members were not prosecuted for aggravated assault does not mean that aggravated assault did not occur.

The Campus Security Act is a "sunshine statute" that promotes (and requires) the disclosure of information regarding campus safety. As such, the emphasis is on disclosing (and not on concealing) as much information as possible so that the campus community can be fully informed. Certainly that statute contemplates that the university should disclose incidents where students are beaten to the point of requiring medical attention in a fraternity recognized by the university. Given the clear statutory purpose, and seriousness of the fraternity hazing incident, we find that the institution's decision to exclude this incident was unreasonable.

Failure to Adequately Determine if all Incidents are Included.

During our review we obtained a copy of a letter to the Vice President for Student Affairs from the Director of the institution's Counseling Center. This letter included a checklist that disclosed the types of problems presented by student-clients to the Counseling Center in the 1994-95 academic year. The listing shows that six percent of the 578 cases handled by the center involved sexual abuse, and four percent of the cases involved physical abuse.

The 1996 campus security report disclosed only one instance of aggravated assault for the 1994 and 1995 calendar years combined, and one instance of sexual assault in the 1994 and 1995 calendar years combined. We recognize that some or all of the cases may have been past events or events that occurred off-campus, or may have been cases that did not rise to the level of forcible sexual offense or aggravated assault. We asked the institution to provide us with documentation to show how it was able to determine that this report included no incidents that needed to be reported.

In its May 14 response the institution stated that ED had falsely concluded that the incidents in the report were related to the institution. It also stated that there were no allegations of crimes reported to the Director of Housing and Security by the Counselors, and therefore, no documentation of incidents to be reported.

The Department has not concluded that the counseling center report includes incidents that should have been disclosed. We inquired to determine on what basis the institution concluded (apparently) that the report included no incidents that should have been disclosed. Applying the stated percentages to 578 cases handled by the center, there were as many as 35 cases of sexual abuse and 23 of physical abuse in the 1994-95 academic year. The institution's position that the Counseling Center would have separately reported to the Director of Security and Housing if any of the cases resulted from crime on campus is not well supported. As noted above, the institution's current information gathering system does not require officials to confirm in writing that no incidents are known to them. The institution did not provide any evidence that it previously asked the Counseling Center's staff to report on crimes that

occurred in earlier periods, or that the Counseling Center staff was otherwise aware of its responsibility to report on incidents that occurred in 1994 and 1995.

Given the potentially high number of incidents reflected in the statistics, the institution as part of any reasonable effort to insure its compliance with its disclosure obligations under the Campus Security Act should have confirmed whether the Counseling Center was aware of any reportable incidents, rather than simply relying on the omission of any separate report from the center.

Failure to Ensure that Information was Gathered from Prior Years

Additionally, in reviewing the institutions revised statistics we noted that the letter included in the October 17 response requesting information of incidents of crime from staff members instructed them to respond by January 15, 1997. In as much as this letter had a prospective response date, we concluded that this document was not used to gather information in prior years and was not used as part of the institution's effort to review and revise its statistics in response to the program review report. We thus asked the institution to provide us with copies of documents used to gather such information.

The institution's response on May 14 stated that no such documentation exists. It stated that it relied on initial complaint reports (ICRs) that its Housing & Security Office had from those years to determine what crimes existed, and that this was sufficient since federal law does not have a requirement for the form used to collect information.

While it is true that the Campus Security Act does not prescribe the form (or other method) to be used to gather the required statistics, any method adopted by an institution must be reasonably designed to insure complete and accurate reporting. In Finding 1 c. of the program review report, we previously advised the institution that the sources of statistical information for its reports were not sufficiently inclusive: "All campus officials with significant responsibility for student and campus activities are not surveyed for data for possible inclusion in the report."

FINAL DETERMINATION

Since all required sources were not surveyed for purposes of the institution's review and revision, we have no basis to conclude that the revised statistics are any more reliable than those previously published. This is particularly true in light of the institution's failure to take into consideration the 1994-95 case load statistics from the Counseling Center.

FINDING NO. 2 TIMELY WARNING PROVISION

The original program review report contained the following finding, reference and requirement for this item:

FINDING: *A review of the institution's annual campus security report revealed that the monthly campus security report entitled "Campus Crime Profile" was intended to be one of the means used to meet the timely warning provision in 34 CFR 668.47. At the time of the site visit, institutional officials indicated they had discontinued publishing the report since it is not a required report.*

REFERENCE: 34 CFR 668.47(1995), [April 29, 1994 Federal Register
(59 FR 22314-22321) and June 30, 1995 Federal Register
(60 FR 34428-34433)]
Sect. 485(f) of the HEA, as amended

REQUIRED ACTION: *The Institution is required to, in a manner that is timely and will aid in the prevention of similar crimes, report to the campus community on crimes that are 1) described in 34 CFR 668.47(a)(6); 2) reported to campus security authorities as identified under the institution's statement of current campus policies pursuant to 34 CFR 668.47(a)(1) or local police agencies; and 3) considered by the institution to represent a threat to students and employees.*

The institution must review, and develop as necessary, its procedures for determining whether to issue a warning to the community when crimes are reported to campus officials, and review possible effective methods of issuing a required warning to the campus community.

In response to this report, the institution must describe its procedures for determining whether to issue a timely warning, the criteria for such a warning and methods for issuing timely warnings.

In its response, the institution referred to two citations in its 1996 campus security report in which it has established timely warning procedures. The first states that the Director of Housing & Security will determine if a continuing danger to the university community exists and will publish warnings through an appropriate process. The second states that the Director of Housing & Security, in conjunction with the Moorhead Police Department, will determine when such a warning will be warranted.

We have reviewed these procedures and found them to be inconsistent. We also have evidence to show that they have not been applied as stated. In addition to the citations included in its response, the 1996 campus security report that accompanied the response refers to timely warnings regarding sexual assaults. In that citation, the institution states that:

"If the Director of Housing & Security, in conjunction with the Moorhead Police Department, determines that a threat continues to exist for the community, information about the reported sexual assault will be reported to the campus community whether reported by a sexual assault survivor or through a third-party report. As much detail as possible regarding location, date, time of the assault, and any information which might help identify the assailant will be reported."

Subsequent to the institution's response, an alleged sexual assault occurred on campus. On December 13, 1996, the institution issued a campus crime alert informing the campus community of the alleged incident (See Attachment C). The alert warned that the drug, "Rohypnol" may have been used in the alleged assault. There was no mention of the specific location, date or time of the assault, or any information which might help identify the assailant and prevent the assailant from acting again. On December 18, 1996, The Forum (Fargo, North Dakota) printed an news article that covered the institution's issuance of the campus crime alert (See Attachment D). The article stated that the institution's public information officer said the incident allegedly occurred in one of the institution's residence halls and was reported to the campus authorities on December 12, 1996. The article also stated that the public information officer said the incident could be described as "date rape."

We asked the institution to explain why it did not include where the incident allegedly took place, when it happened, or information that might identify the assailant. In its May 14 response the institution stated that it did not include information regarding where and when the alleged incident took place because the information was not made available to it.

FINAL DETERMINATION

The timely warning must be performed "in a manner that is timely and will aid in the prevention of similar crimes" (34CFR668.47(e)). Therefore, the institution should provide as much detail as possible under the circumstances in any warning so as to allow the campus community to take appropriate action to safeguard itself from any recurrence. In determining the level of detail to be provided in any timely warning, there are legitimate reasons why the disclosure may not and should not include all detailed information known to the institution, such as the need to safeguard any ongoing police investigation or where there is a lack of certainty as to the identity of the assailant. In the present case, however, the institution's response -- that more detailed information was not available to it -- is simply not credible. As noted, the institution's public affairs officer stated publicly that the incident was known to the university to have occurred in a residence hall and could be described as date rape.

FINDING NO. 3 CAMPUS SECURITY REPORT INFORMATION NOT MADE AVAILABLE TO STUDENTS AND EMPLOYEES

The original program review report contained the following finding, reference and requirement for this item:

FINDING: *Institutional publications were examined and staff were interviewed to determine how the University makes campus security report information available to current and prospective students and employees. It appears that the institution is not in compliance with the Campus Security Act dissemination requirements. Specifically, prospective students and employees are not informed of the campus security report's availability. The only mention in the institutional literature of the report's availability for prospective students and employees is in the report itself. Further, they are advised that a request for the report must be in writing. Of the mandatory consumer information disclosures, the campus security report is the only item for which the University requires a written request.*

REFERENCE: 34 CFR 668.14(c)(2)(1995)
34 CFR 668.16(1995)
34 CFR 668.147(1995), [April 29, 1994 Federal Register
(59 FR 22314-22321) and June 30, 1995 Federal Register
(60 FR 34428-34433)]
Sect. 485(f) of the HEA, as amended

REQUIRED ACTIONS:

Prospective Students and Employees:

- a) *The campus security report must be distributed to prospective students and employees upon request. Prospective students and employees must be informed of the campus security report's availability, given a summary of its contents, and given the opportunity to request a copy of the report.*

In its response, the institution must provide a copy of the notification it will provide to prospective students and employees and must indicate how the notification will be made.

Current Students and Employees:

b) The campus security report is to be distributed to all current students and employees by September 1 of each year through appropriate publication and mailings. Distribution can be by direct mailing (U.S. Postal Service, Campus Mail), through computer network, or hand delivered to each individual. These individuals must not be required to request the report in order to receive it.

The institution must indicate how and when it will distribute the campus security report to current students (on- and off-campus) and employees.

Our analysis of the institution's responses to the required actions disclosed the following:

1. Distribution of the campus security report to prospective students and employees.

The institution stated in its October 17 response that it informs prospective students and employees of the availability of the report, and states in materials sent to prospective students that the campus security report is available upon request, and that this request does not need to be in writing. However, the 1996 campus security report clearly states that, "The University will distribute a copy of the Campus Security Report . . . to each prospective student or employee who requests it in writing."

The institution also included in its response documentation from its Viewbook that it gives to prospective students. This documentation states that prospective students can obtain a copy of the campus security report from the Admissions Office upon request. However, this document does not give prospective students sufficient information to allow either them or their parents to make an informed decision as to whether they should request the report. Therefore, we do not believe that the institution has fully complied with the required action.

The institution also included in its October 17 response a letter to the Director of Personnel from the Director of Housing & Security instructing that individual to inform all prospective employees of their right to receive a copy of the campus security report upon request. This letter does not give specific instructions as to how the Director of Personnel was to inform prospective employees of their right to receive a copy of the campus security report. It does not indicate how prospective employees are made aware of the availability of the report. It also does not give prospective employees sufficient information to allow them to decide if they wish to request the report.

We asked for clarifications of these issues. The institution explained in its May 14 response that its Personnel Office offers the Campus Crime Report to potential employees when it offers information about University benefits. It stated that an actual copy of the most recent Campus Crime Report is included in the packet of information. As described, this procedure meets the requirement.

2. Distribution of the campus security report to current students and employees by September 1 of each year.

In its October 17 response, the institution stated that it distributes the campus security report when each student pays his/her fees, and that students who prepaid fees were mailed a copy of the 1996 report. The response stated that all employees were individually mailed a copy of

the report through campus mail. The institution also stated that current students and employees are not required to request the report to see it.

According to the institution's 1996 Fall Schedule, the last date that students could pay their fees was September 5, 1996 (Attachment E). We asked the institution to explain how it complies with 34 CFR 668.47(a) which requires institutions to publish and distribute the report by September 1, of each year. The institution explained that it hand-delivered the report to every student at Fee Payment, which ran September 3-5, 1996. Thus, those students who paid after September 1 did not receive their copy of the campus security report by September 1. The institution stated that the report was available in various offices and other campus locations on August 21, 1996.

FINAL DETERMINATION

Based on our review of the institution's responses, we find that its methods of distribution comply with the regulatory requirements. The institution should note, however, that due to distribution of the 1996 report during the Fall 1996 Fee Payment period, the institution was not in precise compliance with the September 1 statutory deadline; the institution should be mindful of this deadline when distributing the 1997 report. While the timing of the dissemination of the report is substantially in compliance with the September 1 statutory deadline, it may not be meeting the spirit of the regulations governing student consumerism. We recommend that the institution disseminate this information with sufficient time for student review before the student is obligated to make a financial commitment to the institution. The institution should also correct the misstatement in the 1996 report that prospective students and employees should request the report in writing.

FINDING NO. 4 DEFICIENCIES IN INFORMATION CONTAINED IN THE ANNUAL CAMPUS SECURITY REPORTS

The original program review report contained the following finding, reference and requirement for this item:

FINDING:

a) Statements of policy omitted or incomplete

A review of the University's annual campus security reports revealed several instances where required statements of policy were either omitted, simply stated the policy topic without elaborating a policy, or did not adequately address all required policy components. For example:

1) Informational Programs. *The campus security reports omit the description required under 34 CFR 668.47(a)(4) of the type and frequency of programs designed to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others.*

2) Drug or Alcohol Abuse Programs. *The campus security reports omit a description of, or a cross-reference to (as required by 34 CFR 668.47(a)(11)), drug or alcohol-abuse education programs offered pursuant to section 1213 of the HEA.*

3) Officials to Whom Reports of Criminal Offenses Should Be Made. The campus security reports do not identify to whom on campus (by title or office) students and employees should report the criminal offenses described in paragraph (a)(6) as required by 34 CFR 668.47(a)(1).

4) Security of Campus Facilities. The campus security reports do not address the security of campus facilities, including campus residences, and security considerations used in the maintenance of campus facilities as required by 34 CFR 668.47(a)(2).

5) Programs and Procedures for Sex Offenses. The campus security reports, as required by 34 CFR 668.47(a)(12), do not include:

A) A description of educational programs to promote the awareness of rape, acquaintance rape, and other forcible and nonforcible sex offenses;

B) The importance of preserving evidence for the proof of a criminal offense;

C) Procedures for campus disciplinary action in cases of an alleged sex offense including a clear statement that--

i) The accuser and the accused are entitled to the same opportunities to have others present during a disciplinary proceeding; and

ii) Both the accuser and the accused shall be informed of the outcome of any institutional disciplinary proceeding brought alleging a sex offense;

D) Sanctions the institution may impose following a final determination of an institutional disciplinary proceeding regarding rape, acquaintance rape, or other forcible or nonforcible sex offenses.

b) Statements of Policy Inaccurate

Statements of policy do not accurately represent the actual practices of the institution. For example:

1) Regional Science Center Reporting The "Crime Reports" section of the 1992 and 1994 campus security reports states that the Regional Science Center will be included in the statistics under 34 CFR 668.47(a)(6). The reviewers found that statistics for the Regional Science Center are not collected or reported.

2) Coordination With Local Police Agencies The "Crime Reports" section of the 1992, 1994, and 1995 campus security reports states that all statements and/or reports made to any member of the Campus Security Office will be shared with the Moorhead Police Department, City Attorney's Office, the Clay County Attorney and/or if appropriate, the Campus Conduct Officer. The reviewers found that some incidents were reported and other were not.

3) Alcohol Violations The "Criminal Reports--Specific Guidelines--Alcohol Violations" section of the campus security reports states that"

A) In most cases students are referred through the campus disciplinary system.

B) If it is determined that the person is underage, the Moorhead Police will be called to assist.

A sample of the Campus Security Office's incident reports was reviewed to determine if the University was following the above stated policies. It was found that a number of incidents that involved alcohol violations were not acted upon either through the campus disciplinary system or by calling the Moorhead Police Department for assistance. This was corroborated by the Moorhead Police Department.

4) Complainant's Bill of Rights The campus security reports' "Crime Reporting Procedures" section states that Faculty, staff, and student employees who are not members of the Campus Security Office, are instructed to provide a copy of a Complainant's Bill of Rights, a separate section in the campus security

reports, to those indicating a campus criminal activity. Employees interviewed stated that they are not aware of a Complainant's Bill of Rights.

5) Monitoring Recognized Organizations The campus security reports' "Policy on Monitoring Recognized Organization's [sic] Off-Campus Facilities" section states that the Campus Security Office has made arrangements with the local police agencies to receive reports affecting any identified recognized student organization's facility, and that on a quarterly basis a summary of all law enforcement and Campus Security Office reports are compiled by the Campus Security Office.

The reviewers could not determine if the Campus Security Office actually received these reports from the police department or prepared the quarterly compilation. Officials of the Moorhead Police Department stated that they are unable to identify occurrences of criminal actions by specific location. In addition, they have no procedure for compiling such information. The Moorhead Police Department indicated that they were contacted recently by a University official and they were trying to resolve the problem.

The institution's failure to inform students and employees of its policies, completely and accurately, denies them 1) the opportunity to make informed decisions, and 2) the ability to act appropriately when personal or campus safety is threatened.

REFERENCE: 34 CFR 668.14(c)(2)(1995)
34 CFR 668.16(1995)
34 CFR 668.47((1995), [April 29, 1994 Federal Register]
(59 FR 22314-22312) and June 30, 1995 Federal Register
(60 FR 34428-34433)]
Sect. 485(f) of the HEA, as amended

REQUIRED ACTIONS: The institution is required to review the campus security reports to ensure that all policy statements as required under 34 CFR 668.47 are included. In addition, it must ensure that all other institutional policies and procedures such as, but not limited to, student staff, and faculty disciplinary procedures incorporate these policies.

In its response the institution must indicate where additions and modifications are made. This information should be presented in a comparison format or other format that clearly identifies the changes. Also, in its response the institution must explain how it will implement the required policies and procedures.

The institution's October 17 response stated that it had begun a substantial revision to campus security policies and procedures, resulting in the 1996 campus security report. Its response also stated that it believes it has corrected perceived deficiencies regarding policies being omitted or incomplete. It now includes information in the campus security report on drug and alcohol programs. The institution believes that its programs and procedures for sex offenses are now in compliance. Its procedures for campus discipline are now contained in the 1996 campus security report, including a statement that both the accuser and the accused are entitled to the same opportunity of having others present at the disciplinary proceeding and that both shall be informed of the outcome of the proceeding.

FINAL DETERMINATION

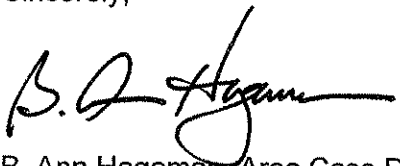
The institution's 1996 campus security report now appears to include the required policy disclosures omitted from prior reports. We are unable to confirm that these policies have in fact been implemented at the institution. We remind the institution that the disclosures must accurately reflect the practices of the institution.

This letter concludes our program review and represents our final determinations. Inasmuch as this FPRD does not assert any liabilities, there are no provisions for an appeal of this letter.

However, as stated previously, we have referred this FPRD to AAAD for appropriate action(s). AAAD will notify you of any action(s) it takes as a result of this FPRD. At that time, you will receive information about your appeal rights regarding any action(s) taken and instruction on how to appeal AAAD action(s). You will have the right to appeal any action taken by AAAD, and you will receive appeal instructions from AAAD at the time any administrative action(s) is initiated.

If you have any questions, please call the undersigned at (312) 886-8767.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Ann Hageman", with a stylized flourish at the end.

B. Ann Hageman, Area Case Director
Chicago Case Management Team
Institutional Participation and Oversight Service

Attachments

cc: Director, Administrative Actions and Appeals
Director, Policy Development Division



UNITED STATES DEPARTMENT OF EDUCATION

REGION V

OFFICE OF STUDENT FINANCIAL ASSISTANCE

111 N. Canal Street, Room 830

Chicago, Illinois 60606

September 13, 1996

File copy

VIA FAX: 218-287-5093

Dr. Roland Barden
President
Moorhead State University
1104 7th Ave. So.
Moorhead, MN 56563

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
RECEIPT #Z 233 381 723

Ref.: PRCN #199630513007

Dear Dr. Barden:

On April 1-5, 1996, Rachael Sternberg and I visited your institution to conduct a review of Moorhead State University's administration of the Campus Security Act of 1990 (the Act).

Our review disclosed several areas where the university needs to improve its compliance with the requirements of the Act. These are described in detail in the enclosed report. Findings of non-compliance are referenced to the applicable Federal laws and regulations. The corrective actions required are designed to assist the institution to come into compliance with the law and regulations. However, this does not preclude additional action from being taken on the matters presented in this report. Please review and respond to this report, indicating the corrective actions taken by Moorhead State University within 30 days of your receipt of this report. If you dispute any of the factual findings, you should provide a detailed explanation and any supporting documentation for your position.

This report contains required actions that necessitate the development and implementation of various policies and procedures. It is important that the individuals charged with the responsibility for administering the provisions of the Act fully understand the requirements of the Act, and the data used by the University for the statistical disclosures required.

This report provides guidance relative to the areas of non-compliance identified. However, as the University develops or revises its policies or procedures with respect to the Campus Security Act, additional guidance may be required. We encourage you to call Ms. Sternberg at (202) 708-7888 or me at (312) 886-8730 for assistance. We look forward to your cooperation throughout this process.

Sincerely,

B. Ann Hageman
Acting Regional Director
Region V, Chicago

PROGRAM REVIEW REPORT

**MOORHEAD STATE UNIVERSITY
1104 7TH AVE. SO.
MOORHEAD, MN 56563**

DATES OF REVIEW: April 1 - 5, 1996 **PRCN:** 199630513007

AWARD YEARS REVIEWED: 1992-93 1993-94 1994-95

EIN #: 1416007701A1

OPE ID #: 00236700

TYPE AND CONTROL: University/Public

ACCREDITATION: Commission on Institutions of Higher Education of the North Central Association of Colleges and Schools

OSFA PROGRAM PARTICIPATION:

<u>1992</u>	<u>1993</u>	<u>1994</u>	<u>1995</u>	
\$5,091,249	\$4,625,451	\$3,419,403	\$1,910,511	Federal Pell Grant
\$338,657	\$338,657	\$342,326	\$342,326	FSEOG
\$1,659	\$493,854	\$1,385	\$3,044	Federal Perkins Loan
\$401,227	\$1	\$399,351	\$399,351	Federal Work-Study
\$547,901	\$464,999	\$279,217	\$351,498	Federal PLUS
\$7,829,067	\$10,133,358	\$13,799,483	\$15,467,383	Federal Stafford Loan
\$486,899	\$460,289	\$204,276	N/A	Federal SLS Loan

DEFAULT RATE: 1992 1993

4.2 3.3

METHOD OF FUNDING: Advance System

REVIEWING ED OFFICIALS: B. Ann Hageman, Acting Regional Director
Rachael Sternberg, Program Specialist, General
Provisions Branch, Policy Development Division,
Student Financial Assistance Programs

INSTITUTIONAL OFFICIALS CONTACTED: Dr. Roland Barden, President
Dr. Steven Butler, Vice President of
Student Affairs
Mr. Mike Pehler, Director of Housing
& Security

PROGRAM REVIEW REPORT

MOORHEAD STATE UNIVERSITY
1104 7TH AVE. SO.
MOORHEAD, MN 56563

TABLE OF CONTENTS

	<u>Page</u>
A. INTRODUCTION.....	1
B. BACKGROUND INFORMATION.....	1
C. SCOPE OF REVIEW.....	2
D. FINDINGS REQUIRING INSTITUTIONAL ACTION.....	2
1. Crime Statistics Not Accurately Disclosed--Annual Security Reports.....	2
2. Timely Warning Provision.....	7
3. Campus Security Report Information Not Made Available to Students and Employees.....	8
4. Deficiencies in Information Contained in the Annual Campus Security Reports.....	9
E. OTHER INFORMATION.....	12

**MOORHEAD STATE UNIVERSITY
1104 7TH AVE. SO.
MOORHEAD, MN 56563**

A. INTRODUCTION

Moorhead State University (MSU) is located in Moorhead, Minnesota. MSU is accredited by the Commission on Institutions of Higher Education of the North Central Association of Colleges and Schools to offer Associate, Baccalaureate, Master's and Specialist degrees. The University enrolls approximately 6,600 students. The University participates in the Federal Pell Grant Program, FSEOG, Federal Perkins Loan Program, Federal Work-Study Program, and the Federal Family Education Loan Program.

B. BACKGROUND INFORMATION

On October 5, 1995, Mr. Gregory McInnis of the Chicago Regional Office received a complaint that indicated Moorhead State University was not in compliance with the requirements of the Campus Security Act of 1990. The University (Mr. Mike Pehler) was contacted by Mr. McInnis on October 20, 1995. Mr. Pehler gave assurances that the institution would review its statistical data and publish and distribute through appropriate publications any corrections. Mr. Pehler indicated that he expected the review would be completed by November 20, 1995 and the information would be forwarded to the Department at that time.

On November 16, 1995, Dr. Steven Butler, Vice President for Student Affairs, wrote to Mr. McInnis relative to the complaint and indicated that "Moorhead State University has been, and is, in compliance with the Student Right-to-Know and Campus Security Act." He stated that prior errors had been corrected and the 1995 annual campus security report was correct.

On November 20, 1995, Dr. Butler wrote to Mr. McInnis stating that the University had reviewed the Campus Security Act and that the University would meet or exceed all requirements.

Following the two Federal furloughs that occurred in late 1995 and in early 1996, the Chicago Regional Office was contacted once again by the complainant who alleged that the university had not published any revisions to its earlier data. The Regional Office had not received the revised information promised in Mr. Pehler's October 20, 1995 letter. A program review was scheduled for the week of April 1, 1996.

Upon arrival at the institution the reviewers found that, contrary to the assurances provided in the University's letters, the corrections to the statistical data had not been made. In addition, the promised publication of corrected data had not occurred.

Instead, during the review, University officials informed the reviewers that they had decided to wait until receiving the program review report to compile and publish revised statistical data.

C. **SCOPE OF REVIEW**

A program review was conducted during the week of April 1-5, 1996, to examine the administration of the Campus Security Act of 1990. The review consisted of an examination of Moorhead State University's policies and procedures relative to the annual campus security report required under the law and regulations. The reviewers examined the pertinent forms, policies, and procedures at the institution, and conducted interviews with appropriate institutional personnel, and students. Additionally, interviews and a review of pertinent documents was conducted at the Moorhead Police Department.

During the review, areas of non-compliance with the provisions of the Campus Security Act of 1990 were noted. Findings of non-compliance are referenced to the applicable laws, regulations and policies, and specify the actions to be taken by Moorhead State University to bring the administration of the Campus Security Act into compliance with Federal statutes and regulations, and to identify any harm caused to the title IV, HEA programs due to non-compliance.

Although the review of the institution's administration of the Campus Security Act was thorough, it cannot be assumed to be all-inclusive. The absence of statements in the report concerning Moorhead State University's specific practices and procedures must not be construed as acceptance, approval, or endorsement of those specific practices and procedures. Furthermore, it does not relieve Moorhead State University of its obligation to comply with all of the statutory or regulatory provisions governing the Campus Security Act or the title IV, HEA programs.

D. **FINDINGS REQUIRING INSTITUTIONAL ACTION**

1. **Crime Statistics Not Accurately Disclosed--Annual Campus Security Reports**

FINDING: The institution's annual campus security reports for each of the years 1992 through 1995 were reviewed to determine: 1) whether all of the required disclosures had been made, and 2) whether the disclosed information was accurate. University officials indicated that all incidents handled by the Housing and Security Office were communicated to the Moorhead Police Department for inclusion in the statistics compiled by the Moorhead Police Department. Because there had been complaints alleging that the information reported was inaccurate, the reviewers examined the source documents used to prepare the crime statistics, and interviewed individuals involved in the gathering

of these statistics and in the preparation of the reports. While the institution did meet the requirement to publish an annual report for each of those years, detailed examination revealed areas where the institution failed to properly report required information.

- a) Crime statistics are estimated. The crime statistics included in the institution's annual security reports do not reflect the number of actual crimes reported to campus officials or local police agencies (as required by 34 CFR 668.47(a)(6)), or arrests for drug, liquor or weapons violations (as required by 34 CFR 668.47(a)(8)). Instead, the statistics for both categories are estimates, provided by the Moorhead Police Department, of the institution's share of crimes reported for the area of the city in which the institution is located. The police department, as part of state crime reporting responsibilities, compiled statistics for crimes reported for various "grids" within the City of Moorhead utilizing state crime definitions. The State of Minnesota recompiled the Moorhead police data using the FBI UCR definitions. This recompiled data was then utilized for the institution's statistical disclosure.

Although the police department created an unofficial "sub-grid" representing the campus, this sub-grid is not reflected in the state compilation. Also, the Moorhead Police "sub-grid" system did not track arrests for drug, liquor or weapons violations. The Moorhead Police Department then estimated the institution's share of the arrests reported for the grid.

This practice of utilizing an estimate cannot satisfy the statutory and regulatory requirement that actual arrests and crimes specifically reported to campus officials and local police agencies be statistically disclosed. The statistics on which the institution relied are incomplete and could not lead to an accurate accounting. The police department's sub-grid did not include other facilities controlled by recognized student organizations. In addition, the sub-grid did not include "reasonably contiguous" university properties located near the main campus that must be included in the statistics according to 34 CFR 668.47(f). More importantly, contrary to statements by the university, all crimes known to university officials are not reported to the police. In reviewing records of the Housing & Security Office, the reviewers determined that some incidents are reported and some are not. There was no indication that the institution took any steps to ensure that the estimated data reflected or corresponded to crimes known to university officials.

- b) All university properties not included. The definition of campus includes: 1) *any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purpose;* 2) *any building or property owned or controlled by a student organization recognized by the institution;* 3) *any building or property controlled by the institution, but owned by a third party.* The reviewers interviewed the Director of Housing and Security and a representative of the Moorhead Police Department who indicated that the figures reported in the university's annual campus security reports included data only from properties located on the campus proper. The campus security reports do not include, as required, all reasonably contiguous buildings or properties owned or controlled by the institution, owned or controlled by recognized student organizations, or controlled by the institution, but owned by a third party. For example, the annual campus security report statistics do not include the occurrence of crimes at university-recognized fraternity housing facilities.
- c) Coordination of information from all sources. As noted in paragraph (a), the institution relies solely on statistics provided by the Moorhead Police Department for its statistical report. All campus officials with significant responsibility for student and campus activities are not surveyed for data for possible inclusion in the report. For example, occurrences of covered crimes reported to the "MSU Counseling Center" were not collected and included in the annual campus security reports' statistics. Officials of the institution involved in student counseling are not excluded from the institution's statistical reporting obligations (counselors are excluded only from the timely warning requirements of 34 CFR 668.47 (e)). The reviewers interviewed the Director of Counseling who indicated that this type of data is collected and quantified by the counseling center.
- d) Statistics for non-contiguous university properties. The Regional Science Center is a non-contiguous property owned and controlled by the institution. Our review of the annual campus security reports revealed that no separate statistics for the Regional Science Center were reported, and there were no references to the center in the various policy statements. Interviews with University officials revealed that the University does not collect statistics or prepare a separate report for the Regional Science Center, either.
- e) Federal Bureau of Investigation's Uniform Crime Reporting Program Categories and Definitions. The institution failed to report occurrences of crimes consistent with the Federal Bureau of Investigation's Uniform

Crime Reporting Program (FBI UCR) definitions contained in 34 CFR 668, Appendix E, and failed to report the crime statistics under the appropriate categories as contained in 34 CFR 668.47(a)(6) and (a)(8). For example, in the 1994 annual campus security report the institution reported "Sexual assaults" by degree, and did not report "Sex offenses, forcible and nonforcible." It is unclear what definition was used to categorize the reports under this category. Detailed review of the annual campus security reports revealed differing reporting categories from year to year. Interviews with university officials and a representative of the Moorhead Police Department revealed that the FBI UCR definitions are not used to categorize crimes. The Moorhead Police Department categorizes incidents according to the State's crime reporting system which uses definitions that are not consistent with the FBI UCR definitions. Although the state of Minnesota recompiled the Moorhead police data using the FBI UCR definitions, use of the state definitions exclusively for initial reporting, may lead to underreporting of, or no reporting for, some required categories. For example, use of the state definitions may result in omitting reports of forcible fondling, which is one of the four sub-categories of sex offenses-forcible as defined by the FBI. Detailed backup information for the annual campus security reports was not available for review, therefore the reviewers were not able to determine the effect or extent of the inaccuracies resulting from not categorizing and reporting crimes according to the FBI UCR definitions.

- f) Hate crimes. The institution's publications did not address the presence or absence of crimes as listed in 34 CFR 668.47(a)(6)(i) that manifest evidence of prejudice based on race, religion, sexual orientation, or ethnicity, as prescribed by the Hate Crimes Statistics Act (28 U.S.C. 534) and required under 34 CFR 668.47(a)(6)(ii).
- g) Timeframe for data collection. For the institution's 1992 and 1994 reports, statistics were reported for 13 month periods from August 1 to the following August 31. The 1993 report did not state the time frame for that year's statistics. For reports due on or after September 1, 1995, data must be reported on a calendar year basis. 34 CFR 668.47(d).
- h) Inconsistent Data. In addition, the reviewers found that the institution had apparently failed to consistently report carryover data. For example, in the category "Aggravated Assault" zero are reported for the year 1992 in the 1992 annual campus security report; seven are reported for the year 1992 in the 1993 annual campus security report; seven are reported for each of the years 1992 and 1993 in the 1994

annual campus security report; and four are reported for the year 1992 and zero are reported for the year 1993 in the 1995 annual campus security report. The inconsistencies are evident in the chart contained in Attachment A. The annual campus security reports provided no explanations for the changes in data from year to year.

Failure to accurately report occurrences of crimes results in the underreporting of occurrence of crimes and denies students and employees the opportunity to make informed judgments about the relative security of the campus environment and to make personal security decisions.

REFERENCE: 34 CFR 668.14(c)(2)(1995)
34 CFR 668.16(1995)
34 CFR 668.47(1995), [April 29, 1994 Federal Register (59 FR 22314-22321) and June 30, 1995 Federal Register (60 FR 34428-34433)]
Sect. 485(f) of the HEA , as amended

REQUIRED ACTIONS: The institution is required to review the requirements of 34 CFR 668.47, develop a system for collecting information about all occurrences (reports/arrests) of those crimes covered in 34 CFR 668.47(a)(6) and (a)(8), use the FBI UCR definitions under 34 CFR part 668 Appendix E, and indicate whether or not any crimes under 34 CFR 668.47 (a)(6)(i) manifest evidence of prejudice as prescribed by the Hate Crimes Statistics Act (28 U.S.C. 534) for inclusion in its annual campus security report. The report must also include separate statistics and other appropriate references for the Regional Science Center since it is a non-contiguous property owned and controlled by the institution; the institution may wish to issue an entirely separate report for the Regional Science Center.

In its response to this report, the institution is required to describe how it will bring its campus security statistical disclosures into compliance with the law and regulations. The institution's response should address each of the deficiencies noted above and explain how it will take corrective actions to ensure complete reporting in the next annual campus security report. In addition, the institution must review previously disclosed statistics and report corrected statistics in light of the noted deficiencies.

Due to the fact that the institution has disclosed only estimated and not actual statistics of crimes on campus, the institution's response must demonstrate that it has taken corrective action to ensure accurate reporting and disclosure. The response should include:

- a) A copy of the detailed procedures it will implement to collect crime statistics and inform relevant staff of their reporting responsibilities.

- b) A listing of relevant staff who will be surveyed for required statistics.
- c) A copy of the data collection instrument(s) to be used indicating all relevant collection timeframes.
- d) A description of how it will incorporate information gathered from the local police into the annual security report.

The Department will review the response to determine the institution's commitment to take corrective action and ensure future compliance.

2. Timely Warning Provision

FINDING: A review of the institution's annual campus security report revealed that the monthly campus security report entitled "Campus Crime Profile" was intended to be one of the means used to meet the timely warning provision in 34 CFR 668.47. At the time of the site visit, institutional officials indicated they had discontinued publishing the report since it is not a required report.

REFERENCE: 34 CFR 668.47(1995), [April 29, 1994 Federal Register (59 FR 22314-22321) and June 30, 1995 Federal Register (60 FR 34428-34433)]
Sect. 485(f) of the HEA , as amended

REQUIRED ACTION: The institution is required to, in a manner that is timely and will aid in the prevention of similar crimes, report to the campus community on crimes that are 1) described in 34 CFR 668.47(a)(6); 2) reported to campus security authorities as identified under the institution's statement of current campus policies pursuant to 34 CFR 668.47(a)(1) or local police agencies; and 3) considered by the institution to represent a threat to students and employees.

The institution must review, and develop as necessary, its procedures for determining whether to issue a warning to the community when crimes are reported to campus officials, and review possible effective methods of issuing a required warning to the campus community.

In response to this report, the institution must describe its procedures for determining whether to issue a timely warning, the criteria for such a warning and methods for issuing timely warnings.

3. Campus Security Report Information Not Made Available to Students and Employees

FINDING: Institutional publications were examined and staff were interviewed to determine how the University makes campus security report information available to current and prospective students and employees. It appears that the institution is not in compliance with the Campus Security Act dissemination requirements. Specifically, prospective students and employees are not informed of the campus security report's availability. The only mention in the institutional literature of the report's availability for prospective students and employees is in the report itself. Further, they are advised that a request for the report must be in writing. Of the mandatory consumer information disclosures, the campus security report is the only item for which the University requires a written request.

REFERENCE: 34 CFR 668.14(c)(2)(1995)
34 CFR 668.16(1995)
34 CFR 668.47(1995), [April 29, 1994 Federal Register
(59 FR 22314-22321) and June 30, 1995 Federal Register
(60 FR 34428-34433)]
Sect. 485(f) of the HEA , as amended

REQUIRED ACTIONS:

Prospective Students and Employees:

- a) The campus security report must be distributed to prospective students and employees upon request. Prospective students and employees must be informed of the campus security report's availability, given a summary of its contents, and given the opportunity to request a copy of the report.

In its response, the institution must provide a copy of the notification it will provide to prospective students and employees and must indicate how the notification will be made.

Current Students and Employees:

- b) The campus security report is to be distributed to all current students and employees by September 1 of each year through appropriate publication and mailings. Distribution can be by direct mailing (U.S. Postal Service, Campus Mail), through computer network, or hand delivered to each individual. These individuals must not be required to request the report in order to receive it.

The institution must indicate how and when it will distribute the campus security report to current students (on- and off-campus) and employees.

4. Deficiencies in Information Contained in the Annual Campus Security Reports

The reviewers performed a detailed analysis of the institution's annual campus security reports to determine if they contained the required disclosures. This analysis included a comparison of information contained in the annual campus security reports, with information received from the Moorhead Police Department and University officials, and with the regulations. This analysis revealed two types of deficiencies: (a) omitted/incomplete information, or (b) inaccurate information.

FINDING:

a) Statements of policy omitted or incomplete

A review of the University's annual campus security reports revealed several instances where required statements of policy were either omitted, simply stated the policy topic without elaborating a policy, or did not adequately address all required policy components. For example:

- 1) Informational Programs. The campus security reports omit the description required under 34 CFR 668.47(a)(4) of the type and frequency of programs designed to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others.
- 2) Drug or Alcohol Abuse Programs. The campus security reports omit a description of, or a cross-reference to (as required by 34 CFR 668.47(a)(11)), drug or alcohol-abuse education programs offered pursuant to section 1213 of the HEA.
- 3) Officials to Whom Reports of Criminal Offenses Should Be Made. The campus security reports do not identify to whom on campus (by title or office) students and employees should report the criminal offenses described in paragraph (a)(6) as required by 34 CFR 668.47(a)(1).
- 4) Security of Campus Facilities. The campus security reports do not address the security of campus facilities, including campus residences, and security considerations used in the maintenance of campus facilities as required by 34 CFR 668.47(a)(2).

5) Programs and Procedures for Sex Offenses. The campus security reports, as required by 34 CFR 668.47(a)(12), do not include:

- A) A description of educational programs to promote the awareness of rape, acquaintance rape, and other forcible and nonforcible sex offenses;
- B) The importance of preserving evidence for the proof of a criminal offense;
- C) Procedures for campus disciplinary action in cases of an alleged sex offense including a clear statement that--
 - i) The accuser and the accused are entitled to the same opportunities to have others present during a disciplinary proceeding; and
 - ii) Both the accuser and the accused shall be informed of the outcome of any institutional disciplinary proceeding brought alleging a sex offense;
- D) Sanctions the institution may impose following a final determination of an institutional disciplinary proceeding regarding rape, acquaintance rape, or other forcible or nonforcible sex offenses.

b) Statements of Policy Inaccurate

Statements of policy do not accurately represent the actual practices of the institution. For example:

- 1) Regional Science Center Reporting The "Crime Reports" section of the 1992 and 1994 campus security reports states that the Regional Science Center will be included in the statistics under 34 CFR 668.47 (a)(6). The reviewers found that statistics for the Regional Science Center are not collected or reported.
- 2) Coordination With Local Police Agencies The "Crime Reports" section of the 1992, 1994, and 1995 campus security reports states that all statements and/or reports made to any member of the Campus Security Office will be shared with the Moorhead Police Department, City Attorney's Office, the Clay County Attorney and/or if appropriate, the Campus Conduct Officer. The reviewers found that some incidents were reported and others were not.

- 3) Alcohol Violations The "Criminal Reports--Specific Guidelines--Alcohol Violations" section of the campus security reports states that:

A) In most cases students are referred through the campus disciplinary system.

B) If it is determined that the person is underage, the Moorhead Police will be called to assist.

A sample of the Campus Security Office's incident reports was reviewed to determine if the University was following the above stated policies. It was found that a number of incidents that involved alcohol violations were not acted upon either through the campus disciplinary system or by calling the Moorhead Police Department for Assistance. This was corroborated by the Moorhead Police Department.

- 4) Complainant's Bill of Rights The campus security reports' "Crime Reporting Procedures" section states that Faculty, staff, and student employees who are not members of the Campus Security Office, are instructed to provide a copy of a Complainant's Bill of Rights, a separate section in the campus security reports, to those indicating a campus criminal activity. Employees interviewed stated that they are not aware of a Complainant's Bill of Rights.
- 5) Monitoring Recognized Organizations The campus security reports' "Policy on Monitoring Recognized Organization's [sic] Off-Campus Facilities" section states that the Campus Security Office has made arrangements with the local police agencies to receive reports affecting any identified recognized student organization's facility, and that on a quarterly basis a summary of all law enforcement and Campus Security Office reports are compiled by the Campus Security Office.

The reviewers could not determine if the Campus Security Office actually received these reports from the police department or prepared the quarterly compilation. Officials of the Moorhead Police Department stated that they are unable to identify occurrences of criminal actions by specific location. In addition, they have no procedure for compiling such information. The Moorhead Police Department indicated that they were contacted recently by a University official and they were trying to resolve the problem.

The institution's failure to inform students and employees of its policies, completely and accurately, denies them 1) the opportunity to make informed decisions and, 2) the ability to act appropriately when personal or campus safety is threatened.

REFERENCE:

34 CFR 668.14(c)(2)(1995)
34 CFR 668.16(1995)
34 CFR 668.47(1995), [April 29, 1994 Federal Register
(59 FR 22314-22321) and June 30, 1995 Federal Register
(60 FR 34428-34433)]
Sect. 485(f) of the HEA , as amended

REQUIRED ACTIONS: The institution is required to review the campus security reports to ensure that all policy statements as required under 34 CFR 668.47 are included. In addition, it must ensure that all other institutional policies and procedures such as, but not limited to, student, staff, and faculty disciplinary procedures incorporate these policies.

In its response the institution must indicate where additions and modifications are made. This information should be presented in a comparison format or other format that clearly identifies the changes. Also, in its response the institution must explain how it will implement the required policies and procedures.

E. **OTHER INFORMATION**

The reviewers conducted interviews with students and staff at the institution. During the course of those interviews, certain information relative to the handling of sexual harassment complaints was presented to the reviewers, as was discussed in the exit interview with President Barden, which is not within the jurisdiction of the Office of Postsecondary Education, and information from these interviews is being forwarded to the Region V Office of Civil Rights.



UNITED STATES DEPARTMENT OF EDUCATION

REGION V

STUDENT FINANCIAL ASSISTANCE PROGRAMS

111 North Canal Street, Suite 830

Mail Stop - Suite 1009

Chicago, Illinois 60606

September 20, 1996

Dr. Roland Barden
President
Moorhead State University
1104 7th Ave. So.
Moorhead, MN 56563

Via Fax: 218-287-5093
CERTIFIED MAIL
RETURN RECEIPT REQUESTED
RECEIPT # Z 233 381 696

Ref.: PRCN #199630513007

Dear Dr. Barden:

Enclosed you will find Attachment A which was referenced in the program review that was transmitted to you on September 13, 1996. This is the same information that was shared with you during our exit conference on April 5, 1996.

Please feel free to call me (at 312-886-8730) if you have any questions.

Sincerely,

B. Ann Hageman
Acting Regional Director
Region V, Chicago

Enclosure

Attachment A

Analysis of Security Report Data 1992-1994 (covering the years 1990-1994)

	Year of Report	Data Year					Comments:		
		90	91	92	93	94			
Campus Security Act Categories:									
(a)(6) Reported Offenses									
MPD Reported		0	0	0	0	0			
Murder	92	0	0	0					
	93	0	0	0					
	94		0	0	0				
	95			0	0	0			
MPD Reported		0							
Rape (prior to 8/1/92)									
	93	0	0	0					
MPD Reported									
Sex Offenses							A No data reported in these categories.		
Forcible							See Sex Offenses, Rape		
Non-Forcible							A No data reported in these categories.		
							See Sex Offenses, Rape		
MPD Reported		0	0	0	0	0			
Robbery	92	0	0	0					
	93	0	0	0					
	94		0	0	0				
	95			0	0	0			
MPD Reported		0	0	0	0	0			
Aggravated	92	0	0	0					
Assault	93	0	0	7			@	Same year data .	
	94		0	7	7		@	changed from year	
	95			4	0	0	@	to year	
MPD Reported		0	2	2	1	1			
Burglary	92	1	2	1			@	Same year data .	
	93	1	2	0			@	changed from year	
	94		2	0	0		@	to year	
	95			2	1	1	@		

*Arrest data only required for the calendar year for each report.

Attachment A

Analysis of Security Report Data 1992-1994 (covering the years 1990-1994)

MPD Reported		0	0	0	0	0	@	Same year data .	
Motor Vehicle	92	0	0	0			@	changed from year	
Theft	93	0	0	2			@	to year	
	94		0	2	3		@		
	95			0	0	0	@		
(a) (8) Number of Arrests							B State reporting system records incidents -- not arrests. (Arrests are Class II data and are not reflected in year end MPD reports.		
MPD Reported			30	7			B	@	Same year data
Liquor-law violations	92	na	30	3					changed from year
	93								to year
	94								
	95								
MPD Reported							1	B	
Drug Abuse	92	0	0	0					
Violations	93								
	94								
	95			0	0	0			
MPD Reported		0	1	0	0		1	B	
Weapons	92	5	1	0					
Possessions	93	5	1	2					
	94		1	2	1				
	95			0	0	1			

*Arrest data only required for the calendar year for each report.

Attachment A

Analysis of Security Report Data 1992-1994 (covering the years 1990-1994)

Categories Not Contained In the Campus Security Act													
But Used by MSU in Their Reports:													
MPD Reported													
Alcohol Arrests	92												
	93	na		30	6								
	94			30	6	3							
	95				7	2	11	@	Same year data				
										changed from year			
MPD Reported										to year			
Unable to report (Class II)													
Drug Arrests	92	0	0	3									
	93	0	0	3									
	94		0	3	0								
	95			0	0	1	@	Same year data					
										changed from year			
										to year			
MPD Reported													
Sexual Assaults													
First Degree													
	94		0	0	0								
Second Degree													
	94		0	0	0								
Third Degree													
	94		0	0	0								
Fourth Degree													
	94		0	0	0								
Fifth Degree													
	94		0	0	0								
MPD Reported		0	3	2	1	0							
Sex Offenses	92	2	3	2									
	93												
	94												
	95			2	1	0							
MPD Reported										C Reported above as rape			
										D Reported as Sexual Assaults			
Other Assaults	92	14	6	5									
										@	Same year data has changed .		

*Arrest data only required for the calendar year for each report.